

BUREAU OF HEALTH

Chapter 258: RULES FOR THE CONTROL OF NOTIFIABLE CONDITIONS

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Chapter 258: RULES FOR THE CONTROL OF NOTIFIABLE CONDITIONS

SUMMARY: These rules repeal and replace the Department's existing *Rules for the Control of Notifiable Conditions, 10-144 CMR Ch. 258* which govern the reporting of certain diseases, clusters of unusual cases of a disease or outbreaks of a disease, epidemics, and extreme public health emergencies. Amendments were made in order to include new disease entities, to expand the list of notifiable conditions, and to update existing rules to reflect recent developments in communicable disease investigation and intervention. Pursuant to 37-B MRSA §742, the Department has adopted a new section in these rules to become operational only in the event of an extreme public health emergency as declared by the Governor.

1. DEFINITIONS

- A. Bureau: The Department of Human Services, Bureau of Health.
- B. Bureau Director: Director of the Bureau of Health, Department of Human Services
- C. Case: A person infected with a particular infectious agent or having a particular disease as diagnosed by a health care provider.
- D. Carrier: A person identified as harboring a specific infectious agent and who serves as a potential source of infection.
- F. Child-Care Facility: Any home, institution or facility licensed by the Department to provide child care.
- G. Commissioner: The Commissioner of the Department of Human Services, State of Maine.
- H. Confinement: Involuntary isolation of a non-compliant individual by judicial order, for a period of time and in such places and under such conditions as to prevent the transmission of the infection to others, to assure that the individual may receive a complete course of treatment, and to limit activities that may place others at risk of acquiring infection.
- I. Communicable Disease: A disease or condition that may cause serious illness, serious disability or death, the infectious agent of which may pass or be carried, directly or indirectly, from the body of one person to the body of another or through a contaminated food or food product.

- J. Contact: An individual who has been exposed to an infectious person in a manner which is likely, given the specific organism involved, to cause infection.
- K. Department: The State of Maine, Department of Human Services.
- L. Division: The Department of Human Services, Bureau of Health, Division of Disease Control.
- M. Division Director: The Director of the Division of Disease Control.
- N. Extreme Public Health Emergency: A state of emergency declared by the Governor of the State of Maine based upon the occurrence or imminent threat of widespread exposure to a highly infectious or toxic agent that poses an imminent threat of substantial harm to the population of the State.
- O. Health and Environmental Testing Laboratory: The Department of Human Services, Bureau of Health, Health and Environmental Testing Laboratory.
- P. Health Care Provider: A nurse practitioner, physician or physician assistant licensed by the State of Maine.
- Q. Health Officer: A local or municipal health officer appointed pursuant to 22 MRSA, Section 451 and who is authorized by the Department to enforce the public health functions of this chapter.
- R. Hospital: A hospital licensed by the Department.
- S. Incubation Period: The period of time that is generally agreed to be the longest time between exposure to an infectious agent and the onset of infection and/or symptoms.
- T. Infectious Person: A person who is diagnosed as having a communicable disease and who, after appropriate medical evaluation or testing, is determined to be a potential source of infection to others, given conditions necessary for transmission of the disease.
- U. Infection Control Practitioner: Any person designated by a hospital, nursing home, medical clinic or other health care facility as having responsibility for prevention, detection, reporting, and control of infections within the facility.
- V. Intervention: Public health action taken after receipt and evaluation of information of reported or suspect cases for follow-up.
- W. Investigation: A systematic inquiry or examination of potential disease causing agents or disease incidence.

- X. Isolation: The separation, for the period of communicability, of an infectious person or animal from others in places and under conditions as to prevent or limit the direct or indirect transmission of the infectious agent to those who are susceptible or who may spread the agent to others.
- Y. Medical laboratory: Any facility that receives, forwards or analyzes specimens of material from the human body, or referred cultures of specimens from the human body, and reports the results to health care providers who use the data for purposes of patient care.
- Z. Non-compliant Person: An individual unable or unwilling to comply with prescribed care.
- AA. Notifiable Condition: Any communicable disease, the occurrence or suspected occurrence of which is required to be reported to the Department pursuant to Title 22, Chapter 250, Section 1493.
- BB. Nurse Practitioner: An individual who is licensed as a registered professional nurse and approved to practice as an advanced practice registered nurse by the Maine State Board of Nursing.
- CC. Nursing Home: A nursing home licensed by the Department.
- DD. Outbreak or Epidemic: A situation in which cases of a notifiable condition are observed in excess of normal expectancy, compared to the usual frequency of the illness or condition in the same area, among a specified population, at the same season of the year. A single case of a disease long absent from a population is also reportable and may require immediate investigation.

A "potential epidemic" is the presence or suspected presence of a communicable disease in a population in which the mode of transmission may facilitate further spread of that disease.
- EE. Penal Institution: Penal and/or correctional institution administered by either the Department of Corrections, State of Maine, by a county, or by a municipality.
- FF. Pharmacist: A pharmacist licensed in the State of Maine by the Board of Registration in Pharmacy.
- GG. Physician: A physician registered and licensed in the State of Maine by either the Board of Registration in Medicine, or by the Board of Osteopathic Licensure.
- HH. Physician Assistant: A physician assistant registered in the State of Maine by either the Board of Registration in Medicine, or by the Board of Osteopathic Examination and Registration.

- JJ. Prescribed care: Isolation, quarantine, examination, vaccination, medical care or treatment ordered by the Department or a court.
- KK. Public Health Threat: Any condition or behavior that can reasonably be expected to place others at significant risk of exposure to infection with a communicable disease.
- LL. Public Health Worker: State public health employees or contractors, including but not limited to, epidemiologist, disease intervention specialist, public health educator, public health nurse or other professional employee.
- MM. Quarantine: The limitation by the Department of freedom of movement of individuals or contacts who have been exposed to a communicable disease, for a period of time equal to the longest incubation period of the disease to which they have been exposed, for the purpose of preventing exposure of other individuals.
- NN. School: Any public or private elementary, secondary or post-secondary educational institution in the State of Maine.
- OO. Sexually Transmitted Disease (STD): chancroid, chlamydia, HIV, gonorrhea, syphilis, or other diseases that are transmitted primarily by sexual contact and that the Department by rule may designate and require to be reported.
- PP. State Epidemiologist: Chief medical epidemiologist of the State of Maine, as designated by the Director of the Bureau of Health.
- QQ. Suspect case: A person having a condition or illness in which the signs and/or symptoms resemble those of a recognized disease.
- RR. Veterinarian: A person licensed in the State of Maine by the Board of Veterinary Medicine.

2. NOTIFIABLE CONDITIONS

The Department may designate any communicable disease as a notifiable condition and establish requirements for reporting of conditions in order to measure the public health impact, to provide immediate disease intervention as needed, and to limit the potential for epidemics of communicable diseases. Maine law requires that health care providers report conditions deemed to be of public health importance in accordance with these rules.

In accordance with 22 MRSA sections 801-825, the Department hereby adopts the following rules and procedures providing for a uniform system of reporting, recording and collecting information concerning notifiable conditions.

A. Who Must Report:

(1) Health care providers

When attending a case or death from any of the diseases listed in part 2-J, the health care provider shall report to the Department, unless previously reported, the information outlined in part 2-B.

(2) Medical laboratories

All medical laboratories must provide to the Department the results of microbiologic cultures, examinations, immunologic assays for the presence of antigens and antibodies, and any other laboratory tests that are indicative of the presence of any of the diseases or conditions in part 2-J, regardless of the clinical significance of the test, and the information specified in part 2-B, as known. The medical laboratory must forward to the Health and Environmental Testing Laboratory all clinical isolates as specified in part 2-J.

(3) Health care facilities

Hospitals, nursing homes, medical clinics, or other health care facilities must require that all individual health care providers report as specified in part 2-A; or the health care facility must designate an infection control practitioner or other person as responsible to report to the Department, within two working days of knowledge of a case, suspect case, carrier, or death from any of the notifiable conditions in part 2-J and the information specified in part 2-B.

(4) Administrators

Administrators, (or their designees) of other public or private institutions such as penal institutions, nursing homes, schools, and day care centers, shall report any outbreak or epidemic situations prevalent within the institution.

(5) Health officers

Local health officers shall report any pertinent information related to any case, suspect case, carrier or death from any disease entities listed in part 2-J as requested by the Department.

(6) Veterinarians and veterinary medical laboratories

The Department shall, under the following circumstances require certain reports of clinical diagnosis of disease in animals and reports of laboratory tests on animals:

- (a) The disease is common to both animals and humans;
- (b) The disease may be transmitted directly or indirectly to and between humans and animals;
- (c) The persons who are afflicted with the disease are likely to suffer complications, disability, or death as a result; or
- (d) Investigation based veterinarian and veterinary medical laboratory reports will assist in the prevention and control of disease among humans.

(7) Others

Unless previously reported, it shall be the duty of every other licensed health care provider who provides care to any patient who has or is suspected of having any of the diseases listed to report to the Department as much of the information outlined as is known.

Although those named above are legally responsible for disease reporting, they may delegate the forwarding of reports to others as appropriate or convenient.

B. What to Report:

- (1) Health care providers
Reports shall contain as much of the following information as is known:
 - (a) disease (whether a case, suspected case, carrier, or death);
 - (b) date of first onset of symptoms;
 - (c) patient:
 - (i) name;
 - (ii) birthdate;
 - (iii) race;
 - (iv) ethnicity;
 - (v) sex;
 - (vi) occupation (if known);

- (vii) residence address, city, county, and zip code;
 - (viii) phone number;
 - (ix) place of work, school, or child care;
 - (d) date of report;
 - (e) health care provider name, address, and phone number;
 - (f) name of hospital or other health care facility (if any);
 - (g) name of person reporting (if not health care provider);
 - (h) all diagnostic laboratory findings and dates of test relevant to the notifiable condition regardless of clinical significance;
 - (i) name and locating information of contacts;
 - (j) other information pertinent to the case, as requested by the Department.
 - (k) if animal species – specify
- (2) Medical laboratories:
- Reports shall contain as much of the following information as is known:
- (a) diagnostic laboratory findings and dates of test;
 - (b) name of person/medical laboratory reporting;
 - (c) health care provider or veterinarian name, address and phone number;
 - (d) patient;
 - (i) name;
 - (ii) birthdate;
 - (iii) residence address.
- (3) Health care facilities: same as for health care providers.
- (4) Administrators of all other public or private institutions:

- (a) constellation of symptoms exhibited;
 - (b) number of individuals affected.
- (5) Health officers: any information that is relayed by health care providers, hospital administrators or persons in charge of public or private institutions.
- (6) Veterinarians and veterinary medical laboratories:
 - (a) disease (whether a case, suspected case, carrier or death);
 - (b) date of first symptoms;
 - (c) name of veterinarian/laboratory reporting;
 - (d) diagnostic laboratory findings and dates of test;
 - (e) other information pertinent to the case as requested by the Department.
- (7) Others: same as for health care providers.

C. When to Report:

Unless specified as requiring immediate reporting, all cases of diagnosed, or positive laboratory tests related to notifiable conditions should be reported as soon as possible, but no later than 48 hours from the diagnosis or positive laboratory test result. When an outbreak or potential epidemic is identified, notification of the Department should be made in as expeditious a manner as possible.

D. Where to Report:

These reports may be made to the Department by telephone (1-800-821-5821 or (207) 287-5301) or by fax transmission (1-800-293-7534). Although fax or telephone should be the primary method of reporting, written reports may be sent to the Division of Disease Control, Bureau of Health, Station 11, Augusta, Maine 04333. Standard forms for the reporting of the notifiable conditions are currently available upon request for disease reporting; however, other forms of written reports are acceptable. Cases of tuberculosis reported by telephone shall be followed by a written report mailed to the Department within 48 hours.

E. Why Report:

Reporting of notifiable conditions is required by health care providers under 22 MRSA, Chapter 250 §822. The Department has authority to implement rules to establish reporting requirements to require other professionals to report. (22 MRSA, Chapter 250 §802.)

The primary objectives of disease surveillance are:

- (1) to determine the incidence and prevalence of notifiable conditions within the state;
- (2) to evaluate risks of transmission;
- (3) to intervene rapidly when appropriate to control spread of the disease; and
- (4) when appropriate, to increase understanding of the distribution and determinants of the condition in the state's population.

F. Immunity:

Any person participating in reporting under this chapter or participating in a related notifiable disease investigation or proceeding, including, but not limited to, any person serving on or assisting a multidisciplinary intervention team or other investigating or treatment team, is immune from civil liability for the act of reporting or participating in the investigation or proceeding in good faith. Good faith does not include instances when a false report is made and the reporting person knows or should know the report is false.

G. Confidentiality:

The name and related information which may identify individuals reported to the Department shall remain confidential and may be released only to other public health and school officials or agencies for public health purposes, or to the Department for adult or child protection purposes in accordance with 22 MRSA, Chapters 958-A and 1071. In an extreme public health emergency, the information may also be released to private health care providers and agencies for the purpose of preventing further disease transmission. By law, no person, official or institution complying with reporting requirements shall be held liable for any civil damage as a result of such act. No person may disclose the results of an HIV test except as permitted in 5 MRSA, Section 19203.

Disease reporting information collected from health care providers, laboratories, hospitals or other institutions, and from patients themselves, is considered confidential and data released to the public, the media, or other agencies may not contain potentially identifying information, unless otherwise specified in these rules.

H. Access to hospital and provider records:

The Department may have access to hospital or other health provider or healthcare facility records containing or related to health information, or abstracts of these records, for the purpose of investigating cases, outbreaks, epidemics or potential epidemics of notifiable conditions.

I. Reporting from pharmacists:

Pharmacists shall report to the Department the dispensing of a prescription for treatment of a disease that is relatively uncommon or may be associated with bioterrorism as requested by the Department in the event of an emerging public health threat.

J. Notifiable Conditions List:

- (1) **Category 1:** Reportable immediately to the Bureau of Health by telephone on the day of recognition or strong suspicion of disease.

Chickenpox (varicella)

- Admission to hospital, any age
- Adults > 18 years, any clinical setting

Diphtheria

Hepatitis A, B, and C (acute)

Hepatitis, acute (etiologic tests pending or etiology unknown)

Measles (rubeola)

Meningococcal disease

Outbreaks

- Foodborne (involving 2 or more persons); waterborne; and respiratory
- Institutional
- Unusual disease or illness

Pertussis

Poliomyelitis

Rabies (human and animal)

Rubella (including congenital)

Staphylococcus aureus disease, reduced or resistant susceptibility to vancomycin

Tuberculosis (active and presumptive cases)

Category 1 Diseases that are possible indicators of bioterrorism:

Anthrax

Botulism

Brucellosis

Gram positive rod septicemia or meningitis, growth within 72 hours of inoculation in laboratory

Outbreaks of unusual disease or illness

Plague

Q fever

Ricin Poisoning

- (2) **Category 2:** Reportable within 48 hours of recognition or strong suspicion to the Bureau of Health.

Acquired Immunodeficiency Syndrome (AIDS)

Babesiosis

Campylobacteriosis

CD4 lymphocyte counts <200/uL or <14% of total lymphocytes

Chancroid

Chlamydia (*c. trachomatis*) (all sites)

Chickenpox

Chickenpox-related death

Creutzfeldt-Jacob disease, <55 years of age

Cryptosporidiosis

Cyclosporiasis

Ehrlichiosis

Encephalitis, arboviral

Escherichia coli O157:H7 (and all other hemorrhagic *E.coli* enteritis, shiga producing *E.Coli* strains)

Giardiasis

Gonorrhea

Haemophilus influenzae disease, invasive, all serotypes

Hantavirus pulmonary syndrome

Hemolytic-uremic syndrome (post-diarrheal)

Hepatitis B (chronic, perinatal)

Hepatitis C (chronic)

Human Immunodeficiency virus (HIV) infection*

Influenza-like illness outbreaks

Legionellosis

Listeriosis

Lyme disease

Malaria

Meningitis, bacterial

Meningococcal invasive disease

Mumps

Psittacosis

Salmonellosis
 Shiga toxin-related disease (gastroenteritis)
 Shigellosis
 Streptococcal disease, invasive Groups A and B
Streptococcus pneumoniae, invasive disease
 Severe Acute Respiratory Syndrome (SARS)
 Syphilis
 Tetanus
 Toxoplasmosis
 Trichinosis
Vibrio species, including Cholera
 West Nile virus infection
 Yellow Fever

*Soundex patient identifier or patient name required

Category 2 Diseases caused by antibiotic-resistant organisms:

- a. Methicillin-resistant *Staphylococcus aureus* (MRSA) infections suspected to be community-acquired
- b. Vancomycin-resistant *Staphylococcus aureus* (VRSA) infections

Antibiotic-resistant Diseases in Special Category: Other diseases caused by selected antibiotic-resistant organisms are to be reported semiannually (twice each year) in aggregate form[‡] by clinical laboratories. These include:

Invasive disease caused by methicillin-resistant *Staphylococcus aureus* (MRSA)
Invasive disease caused by vancomycin-resistant Enterococcal species
Invasive disease caused by penicillin-resistant *Streptococcus pneumoniae*

[‡]These conditions should be reported according to criteria developed in collaboration with MICRONET (statewide network of clinical microbiologists). Updated criteria and reporting forms may be obtained by calling 1-800-821-5821, or online at www.mainepublichealth.org.

K. Referral of Cultures to the Maine Health and Environmental Testing Laboratory

Directors of Laboratories are to submit cultures of the following organisms to the Maine Health and Environmental Testing Laboratory for confirmation, typing, and/or antibiotic sensitivity including but not limited to:

Bordetella pertussis
Clostridium botulinum
Clostridium tetani
Corynebacterium diphtheria
Escherichia coli O157:H7
Francisella species

Haemophilus influenzae, invasive
Legionella species
Listeria species
Mycobacterium species (TB complex only)
Neisseria meningitidis
Salmonella species, including *S. typhi*
Shigella species
Streptococcus, Group A, invasive only
Streptococcus pneumoniae, invasive only
Vibrio species
Yersinia pestis

L. Reporting of Outbreaks / Unusual Case Incidence:

Any pattern of cases or increased incidence of cases or illness beyond the expected number of cases in a given period, or cases or illness regardless of apparent agent which may indicate a newly recognized infectious agent, or an outbreak or related public health hazard, (including suspected or confirmed outbreaks of food or waterborne disease), must be reported immediately by telephone to the Department.

In the event that the Bureau of Health determines that an outbreak or unusual disease condition has occurred, it may request providers who care for cases to report specified information as set forth in Section 2B to the Department.

3. DUTIES OF LOCAL HEALTH OFFICERS

It shall be the duty of health officers to require that all state laws, rules of the Department and local health ordinances be strictly enforced in their respective communities, subject to the direction and supervision of the Department. The health officer shall receive and examine the nature of complaints made by any of the inhabitants concerning conditions posing a public health threat or a potential public health threat within the limits of his or her jurisdiction.

Every health officer shall report promptly to the Department all cases and outbreaks of notifiable diseases.

4. DUTIES OF HEALTH CARE PROVIDERS AND ATTENDANTS

Health care providers and persons attending a case of a notifiable disease shall arrange for such precautionary measures, consistent with the rules of the Department, including examination and isolation of the case when necessary, as are required to prevent the spread of infection to other members of the household or to the community. Proper isolation or other precautionary measures may be instituted by the Department or by the

health officer after consultation with the Department. Notifiable disease cases shall receive immediate treatment according to the most recently established guidelines as promulgated by the appropriate professional organization and as are generally perceived to represent the current standard of care.

Non-compliant persons shall be reported to the Department for necessary interventions.

5. DUTIES OF THE DEPARTMENT FOR DISEASE INVESTIGATION AND INTERVENTION.

The Department's Division of Disease Control shall routinely make current information available to practicing health care providers regarding the distribution of notifiable conditions in Maine and the prevention and treatment of notifiable conditions. In addition, the Division shall use all reasonable means to: confirm in a timely manner any case or suspected case of a notifiable condition; ascertain so far as possible all sources of infection and exposures to the infection; and institute control measures for notifiable conditions consistent with the currently accepted standards as found in the 17th edition (2000) of Control of Communicable Diseases Manual, published by the American Public Health Association, unless specified otherwise by the State Epidemiologist.

The scope and extent of the duties for disease investigation and intervention may vary depending upon the circumstances of the cases, falling into one of four broad categories: routine cases, non-compliant persons, outbreaks or epidemics, and extreme public health emergencies.

A. Routine Case Investigation and Intervention.

- (1) **Provider and public health.** All persons diagnosed with notifiable conditions, or who have recently been exposed to such conditions or diseases, shall be instructed by the health care provider in regard to precautions to be taken to prevent spread of the conditions or disease. The Division shall make current information available to practicing health care providers regarding the prevention and treatment of notifiable conditions or diseases. The Division shall be available to consult with health care providers regarding appropriate treatment, notification and referral of contacts to cases, and other preventive and control measures.
- (2) **Interviews.** In order to assure rapid and timely implementation of control measures, including contact notification and referral services, the Division may interview all persons either treated for or recently exposed to notifiable conditions or diseases, their health providers, and such other persons as the Division determines may have relevant information relating to the onset or contraction of such conditions or diseases at the direction of the State Epidemiologist. Cases of notifiable disease conditions, as determined by the State Epidemiologist, or designee, may require further

interview, when specific public health disease intervention strategies are required; when the case is part of an ongoing cluster of outbreak disease investigation; when specific public health intervention strategies are required; or when the epidemiology of the disease or condition is not clearly understood or defined. When practical, the Division shall contact and inform the health care provider of plans to interview the case in order to foster communication and collaboration in disease control efforts.

- (3) **Interventions:** Public health workers will recommend or take actions that they deem necessary to implement interventions with each case and that are consistent with currently accepted standards as found for the notifiable condition in the 17th edition (2000) of Control of Communicable Diseases Manual, published by the American Public Health Association, unless specified otherwise by the State Epidemiologist.

B. Non-compliant Persons

- (1) **Background.** Nothing in any of these rules shall be construed to deny persons the right to rely solely upon exercise of their moral, philosophical, religious or other personal reasons to prevent or cure disease, if that reliance is based upon sincere religious or conscientious objection to standard treatment and/or public health interventions and if alternative public health measures, even if more restrictive, are available to address the public health threat posed by their infectiousness. If such persons endanger the public through their infectiousness or through their behaviors while infected, the Department may use public health disease control methods, up to and including involuntary confinement, isolation and medical treatment, as necessary to protect the public, as authorized by 22 MRSA, sections 807 et seq. and in these rules.

Treatment of those persons who have either contracted or been exposed to a notifiable condition or other infectious disease that poses a public health threat, or who have been subjected to prescribed care by the Division, may be imposed on an involuntary basis in the event such persons refuse prescribed care and/or conduct themselves in a manner which constitutes a public health threat. Persons who have either contracted or been exposed to notifiable conditions who knowingly expose others to the danger thereof, are to be considered as acting in a manner that is a public health threat. These persons are considered non-compliant with prescribed care.

Either the Department, acting through its Commissioner, or his or her designee, the Governor, or a court of competent jurisdiction may subject a non-compliant person to involuntary medical treatment and other public health measures, in accordance with applicable law.

Treatment shall be in accord with the most current treatment recommendations for the notifiable condition published by the federal Centers for Disease Control and Prevention. Prescribed care shall be consistent with currently accepted standards as found for the notifiable condition in the 17th edition (2000) of Control of Communicable Diseases Manual, published by the American Public Health Association, unless specified otherwise by the State Epidemiologist.

In imposing treatment and related public health disease control measures on an individual, the least restrictive measures shall be utilized to assure effective medical treatment of the condition and to limit the spread of the notifiable condition or other infectious disease which pose a threat to public health. The Department shall adopt step-wise medical treatment and public health disease control strategies as described in this rule whenever practical and as long as so doing does not unreasonably increase the threat to the public health.

- (2) **Investigation.** The process of imposing medical treatment and related public health disease control measures shall be initiated when a complaint is made to the Director of the Division of Disease Control by a person with sufficient reason and evidence to believe that a person who has either contracted or been exposed to notifiable conditions is knowingly engaged in behavior likely to transmit that condition. Anonymous complaints or complaints based only on second hand information will be investigated at the discretion of the Bureau Director or designee in consultation with the State Epidemiologist and/or knowledgeable public health program managers or staff.

Each complaint shall, whenever possible, identify the reporter and the subject of the complaint, be signed by the individual making the complaint, and must include: locating information for the individual making the complaint; locating information for the individual against whom the complaint is made, and specific allegations of non-compliant behavior.

Investigations shall be conducted in a systematic fashion utilizing appropriate public health workers from the Division with expertise in the notifiable condition. They shall be conducted under the direction of the Division Director and concluded within 15 working days of the complaint being received.

Each investigation shall establish and document whether the alleged non-compliant person is infected with the notifiable condition and whether the alleged non-compliant person is engaging knowingly in behavior that exposes others to infection with the notifiable condition. If the public health worker is unable to establish that the person is infected or that the

alleged behavior exposing others to infection is occurring, the investigation shall cease immediately and records pertaining to it shall be delivered to the Division Director who shall retain them and have them destroyed at the end of three years.

If there is credible evidence to substantiate the allegation of infection and non-compliance, the public health worker shall make all reasonable attempts to locate the subject of the complaint to conduct a personal interview to assess the individual's current understanding of the infection with the notifiable condition, its treatment, and the behaviors that are placing others at risk of infection. The interview shall establish and document whether the person: a) knows that (s)he is infected; b) has received appropriate education and counseling about the infection; c) understands the modes of transmission of the notifiable condition and methods to prevent transmission; d) is engaging in non-compliant behavior.

The complete documentation of the investigation, findings and recommendations shall be given to the Division Director.

- (3) **Step-wise interventions.** For each complaint that results in a substantiated case of non-compliance, the Division Director shall establish a Standing Committee which (s)he shall chair for the coordination of step-wise prescribed care measures. The Standing Committee shall include as many as possible of the following: the non-compliant person's health care provider; professional staff from other health or social service agencies serving the non-compliant person; a representative from the Office of the Attorney General; the Director of the Bureau of Health or designee; the public health worker investigating the case; the State Epidemiologist or designee; and the Division program manager with expertise in the particular notifiable condition.

The step-wise prescribed care measures which may be imposed include:

- (a) Face-to-face counseling by a public health educator, epidemiologist, public health nurse, disease intervention specialist or other public health professional regarding the infected individual's notifiable condition, its cause and treatment and the necessity for disease control measures.
- (b) Prescribed care measures individualized into a documented plan for the infected individual, including such supportive services as: direct observation of the individual taking required medications on a daily basis, transportation to treatment facilities, individual or group supportive counseling or therapy, and financial support for shelter and food for the duration of medical treatment.

- (c) A Cease and Desist Order, signed by the Commissioner, directing the infected individual to comply with medical treatment and specifying public health disease control measures to be followed.
- (d) Court-ordered confinement, isolation and treatment. Upon receipt of information that a cease and desist order has been violated, the Department shall contact the Office of the Attorney General to pursue a civil fine and/or injunctive relief pursuant to 22 MRSA, Section 804 (2); or civil commitment or other relief under 22 MRSA, Section 810 or 812e.
- (e) The Standing Committee may, at its discretion, not seek a Departmental Cease and Desist Order and instead directly request the Office of the Attorney General to pursue commitment procedures under 22 MRSA, Chapters 810 or 812e.

In taking the step of seeking confinement, isolation and treatment, the Standing Committee should base its actions on one or more of the following factors:

- (i) whether, based on laboratory tests or clinical signs and symptoms, the individual has a great likelihood of active disease that is extremely contagious;
- (ii) the risk of infecting others, taking into consideration the individual's housing and employment situation;
- (iii) the probability others will be infected if exposed to the individual;
- (iv) whether the individual has previously been diagnosed and/or treated for the notifiable condition but has failed to complete therapy;
- (v) whether the individual refuses or does not comply with recommended treatment and/or interventions;
- (vi) whether the individual has, or is likely to have, a drug resistant strain of the organism based on laboratory tests or a history of non-compliance with recommended chemotherapy;
- (vii) the individual's documented history of failure to comply with preventive practices as recommended by medical or public health authorities.

The type and duration of confinement, isolation and treatment will be consistent with national standards as published in the 17th edition (2000) of Control of Communicable Diseases Manual, published by the American Public Health Association.

The Bureau should request the Court to require that the individual be isolated until it is determined that the individual is no longer infectious or a threat to others. This determination shall be based on laboratory results indicating that the individual is no longer infectious, or following the completion of a course of therapy that is determined by the health care provider to be consistent with the most current treatment recommendations, or by an indication that the individual understands and complies with preventive health practices. In the case of certain conditions, the individual should also be ordered to receive treatment in a hospital or other appropriate facility until he/she is cured, unless it can be assured that the individual will complete the recommended therapy.

C. Investigation and Intervention of Outbreaks or Epidemics.

- (1) **Control measures.** In the event of an outbreak or epidemic of a notifiable condition or of a potential epidemic, the Department shall institute public health disease control measures consistent with national standards as published in the 17th edition (2000) of Control of Communicable Diseases Manual, published by the American Public Health Association. Individuals who are alleged to be non-compliant with these public health disease control measures or prescribed medical treatment shall be treated in the manner prescribed in Section 5 B (above) as expeditiously as possible.
- (2) **Common Source of an Outbreak or Epidemic.** Any public or private enterprise, utility, lodging area, food market, or other entity which provides food or water which is likely to be or has been determined by either laboratory or epidemiological methods to be a source of an outbreak or epidemic may be ordered by the Department to end the use or distribution of said food or water until the source of contamination is found and corrected and the food or water has been proven safe for consumption.
- (3) **Vaccine-preventable Outbreaks or Epidemics.** In the event of an outbreak or epidemic or of a potential epidemic of a vaccine preventable disease in licensed child care facility or a school, the Department shall order the superintendent of that district or the administrator of the child care facility to exclude all children from school or the center who have not already experienced the illness or who are not immunized against the epidemic disease. If an epidemic of a vaccine-preventable disease in a

child care center or school district continues in spite of exclusion of unimmunized children, or if such exclusion is not possible, the Department itself may dismiss school in that district or exclude susceptible pupils, as authorized in 22 MRSA, Section 806.

6. EXTREME PUBLIC HEALTH EMERGENCY: DEFINITION AND CONTROL MEASURES

- A. **Applicability.** The rules specified in this Section shall only be applicable in the event of an extreme public health emergency and then only for the duration of that emergency.
- B. **Control Measures.** In the event of an extreme public health emergency, the Department shall take all necessary steps to institute medical treatment and public health control measures for the benefit of the population that either has been exposed to, or is at significant risk of exposure to a notifiable condition or other highly infectious or toxic agent that poses an imminent threat of substantial harm to the population of Maine.

These measures shall be consistent with the national standards for the infectious or toxic agent as published in the 17th edition (2000) of Control of Communicable Diseases Manual, published by the American Public Health Association, or as established by the Commissioner's Medical-Legal Advisory Panel. In addition to exercising the powers and responsibilities imposed upon the Department in 22 MRSA, Chapter 250, subchapters I, II and III, the Department may undertake the following public health measures during a period of declared extreme public health authority:

- (1) **Management of persons.** For the duration of the extreme public health emergency, the Department shall assure that all necessary steps are taken to protect the public health and safety, including:
 - (a) Identification of exposed persons, using all reasonable means to confirm in a timely manner any case, or suspected case, of a communicable disease and shall ascertain so far as possible all sources of infection and exposures to the infection.
 - (b) Tracking and follow-up of persons who are infected or exposed, consistent with the standards referenced above or those established for the extreme public health emergency by the Bureau Director or designee.
 - (c) Mandatory medical examination of infected or exposed persons, making or causing all needed examinations, including laboratory testing.

- (d) Mandatory medical treatment, including vaccination or treatment with such medications as are warranted by the standards established above.
- (e) Isolation of cases and quarantine of exposed individuals, as indicated, concurrent and terminal disinfection, or modified forms of these procedures as may be necessary.

Individuals who do not comply voluntarily with these public health disease control measures or prescribed medical treatment and who are deemed by the Department to be exposed to or at serious risk of transmitting a communicable disease that poses a serious and imminent risk to public health and safety, shall be taken into custody and prescribed care consistent with these standards or standards established by the Commissioner's Medical-Legal Advisory Panel.

A person is exempt from such prescribed care if alternative public health measures are available even if those measures are more restrictive, and if a) the person demonstrates a sincere religious or conscientious objection to the care; or b) the person is at known risk of serious adverse medical reaction to the care.

- (2) **Control of property.** To the extent authorized by the Governor in accordance with his or her authority pursuant to 37-B M.R.S.A. §§ 742 & 821, and in conformity with the process for obtaining or acquiring property or taking other necessary action to abate, clean up, or mitigate whatever danger presented by the declared extreme public health emergency pursuant to 37-B M.R.S.A. §§ 742 and 821, and only for the duration of the declared extreme public health emergency, the Department shall assure that necessary steps are taken to protect the public health and safety by exercising the following powers as necessary:
 - (a) Accessing suspicious premises: any agent of the Department may enter any building, vessel or conveyance to inspect it and remove from it any person, animal, or material affected or appearing to be affected by a communicable disease.
 - (b) Closure of facilities: the Department may close schools and forbid public gatherings in schools, places of worship, and all other places in order to control spread of communicable disease.
 - (c) Temporary use of health care facilities and ability to transfer patients: the Department may provide those sick with a communicable disease with medical aid and temporary hospital accommodation, taking control of the facilities deemed needed and transferring patients as deemed necessary.

- (d) Temporary use of hotel and motel rooms and other facilities: the Department may provide those sick with communicable disease or those exposed to a communicable disease shelter and care, including medical examinations and vaccination clinics, in hotels, motels and other facilities as deemed necessary and may procure needed facilities for these purposes during the extreme public health emergency.
- (e) Procurement of medicines and vaccines, supplies and equipment: the Department may procure, store or distribute antitoxins, serums, vaccines, immunizing agents, antibiotics and other pharmaceutical agents or medical supplies that the Department determines are advisable to control the extreme public health emergency.
- (f) Decontamination of buildings: the Department may issue orders for the quarantine and disinfection of localities and things infected or suspected of being infected by a communicable disease, and for the sanitary care of jails, state prisons, mental health institutions, schools, hotels, motels, health facilities, public buildings and other premises deemed necessary to control the extreme public health emergency.
- (g) Seizure and destruction of contaminated articles: the Department may take and destroy private property for the purpose of controlling the extreme public health emergency.
- (h) Disposal of human and animal remains: the Department may issue orders regarding the safe disposal of human and animal remains for the purpose of controlling the extreme public health emergency.

7. PROCEDURES FOR ANIMALS SUSPECTED OF HAVING RABIES

Healthy dogs, cats or ferrets that potentially expose a human or domestic animal to rabies shall be placed under ten day quarantine. This confinement must be under humane conditions which will prevent the spread of infection to human beings or to other animals. Quarantine will be under the supervision of the local animal control officer or municipal designated agent.

If an animal other than a dog, cat or ferret (i.e. an animal for which there currently exists no licensed rabies vaccine and for which there is poor or no understanding of the epidemiology of rabies infection) has potentially exposed a human or domestic animal to rabies, and a case investigation is not able to rule out rabies infection in the animal,

the animal shall be immediately humanely sacrificed and sent to the Health and Environmental Testing Laboratory for rabies examination.

Livestock may be quarantined for 10-30 days, depending on vaccination status and geographic region.

The regulations for effective management of rabies (a notifiable condition) are more fully set forth in the Department of Human Services "Rules Governing Rabies Management", Reg. 144A, Chapter 251.

8. LABORATORY EXAMINATIONS

In keeping with scientific progress, or the needs of specific cases, the Department may specify from time to time those methods which are acceptable for the collection, handling, preservation, and examination of specimens for the finding and control of cases of notifiable conditions. Specimens submitted in order to determine eligibility for release from isolation or quarantine requirements, and also specimens arranged for by a representative of the Department, as part of the investigation of a case or outbreak of a notifiable condition shall be submitted to the Health and Environmental Testing Laboratory or another laboratory specially certified for the purpose by the Health and Environmental Testing Laboratory.

A laboratory so designated shall promptly report to the Department the result of examination of all such specimens; and shall promptly forward to the Health and Environmental Testing Laboratory all positive cultures\serum or suspicious cultures from such specimens for confirmation.

Medical laboratories shall submit isolates of selected organisms to the Health and Environmental Testing Laboratory, as specified in Section 2J, so that further evaluation of such isolates can be performed.

9. EXPOSURES THAT CREATE A SIGNIFICANT RISK OF HIV TRANSMISSION

For purposes of 5 MRSA, Section 19203-C, a significant risk of HIV infection shall be defined as an exposure to any of the following potentially infectious body tissues or body fluids: blood; semen; vaginal fluid; cerebrospinal fluid; synovial fluid; pleural fluid; peritoneal fluid; pericardial fluid; or amniotic fluid; which results from:

- A. sexual intercourse including vaginal, oral or anal contact;
- B. mucous membrane contact (splash to the eye or mouth);
- C. parenteral inoculation (needlestick or cut); or

- D. cutaneous exposure involving large amounts or prolonged contact on nonintact skin.

10. IMMUNIZATION

- A. Title 22 MRSA, Sections 1061-1063 gives the Department power to offer immunization to the public for protection in case of an epidemic or threatened epidemic as ordered by the Commissioner. Section 1063 states in part:

Notwithstanding any inconsistent provision of any law, no person who works as a volunteer in a public immunization program set up by the Department, without expectation or receipt of monetary compensation for any aspect of such program, shall be liable:

- (1) for damages or injuries alleged to have been sustained by a person immunized under the program; nor
- (2) for damages for the death of a person immunized under the program, unless it is established that the injuries or the death were caused willfully, wantonly, recklessly or by gross negligence of the volunteer.

- B. Mass immunization clinics may be offered by the Department for protection in case of an epidemic or threatened epidemic.

STATUTORY AUTHORITY: These Rules for the Control of Notifiable Diseases are promulgated under the Authority of Title 22 MRSA, Sections 3, 7, 42 (1), 802, 807 and 1491. Part 9 is promulgated pursuant to 5 MRSA, Section 19203-C.

EFFECTIVE DATE:

June, 1976 (Filed with Secretary of State - 1-25-80)

AMENDED:

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EFFECTIVE DATE (ELECTRONIC CONVERSION):

May 5, 1996

AMENDED:

September 3, 1996

June 1, 1999

NON-SUBSTANTIVE CORRECTION:

March 12, 2000 - attachment added at the request of the Department

BASIS STATEMENT

Adoption of these rules is required in order for the Department to have the best procedural tools in place to respond to current international developments which may affect the public health of Maine. These developments include: the increased risk of a bioterrorist attack due to the U.S. war on Iraq and the current international outbreak of Severe Acute Respiratory Syndrome (SARS). The Department has chosen to repeal and replace 10-144 Chapter 258 due to the extensive changes being proposed.